

REMARKS

Claims 1-4, 9-11, 27-29 and 60-78 are cancelled; claims 5, 34 and 37 are amended; and claims 5-8, 12-26, 30-59 and 79-96 are pending in the application.

Claims 12-26 are allowed.

Claims 5-8, 30-59 and 79-96 stand rejected as being obvious over European Patent No. 0395425 and an article by Zheng Cul. Applicant respectfully requests reconsideration of such rejections.

The Examiner notes in rejecting claims 5-8, 30-59 and 79-96 that various recited features of the claims are not specifically shown in either of the cited references. Specifically, the Examiner notes that the claims differ from the teachings from the cited art in that the claims recite utilization of multiple patterns, and utilization of techniques such as doping, in contexts which are not specifically taught by the cited art. The Examiner goes on to maintain that it would be obvious to one of ordinary skill in the art to utilize the various patterns and techniques claimed by Applicant in that the techniques are standard in the art, and in that there is "usually a need for more complex patterns on the higher integrated masks which would require the use of multiple patterns and production techniques."

Applicant respectfully submits that the Examiner's conclusions regarding the obviousness of the subject matter of claims 5-8, 30-59 and 79-96 are not an appropriate basis for establishing obviousness of the claims. The Examiner is reminded that under M.P.E.P. §706.02(j) three basic criteria must be met in order to establish the obviousness of a claim relative to one or more cited references. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available

to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or the references when combined, must teach or suggest all of the claimed limitations.

In the present case, the Examiner has not established sufficient suggestion or motivation to modify or combine the reference teachings to obtain the subject matter of claims 5-8, 30-59 and 79-96. The examiner merely concludes that the subject matter of such claims would be obvious because the techniques in the claims are "standard techniques" and because "there is usually a need for more complex patterns on the higher integrated masks which would require the use of multiple patterns and production techniques". Applicant respectfully submits that regardless of whether the techniques included in claims 5-8, 30-59 and 79-96 are standard techniques, such does not, by itself, render the claims obvious. Rather, consideration must be given as to whether the techniques are incorporated into a non-obvious procedure.

In the present case, there is no teaching or suggestion amongst the cited references for the procedures of claims 5-8, 30-59 and 79-96, and accordingly, the procedures are not obvious within the context of M.P.E.P. §706.02(j) regardless of whether or not the procedures utilize "standard techniques". The Examiner's conclusion that there is frequently a need for more complex patterns to form higher integrated masks is a statement of a need in the art for improved processes relative to those currently being practiced. Such statement is not specific enough to provide the motivation required to support a §103 rejection of claims 5-8, 30-59 and 79-96. More specifically, the Examiner's

statement does not explain why a person of ordinary skill in the art would be motivated to modify the cited references to achieve the particular aspects of claims 5-8, 30-59 and 79-96 which are not taught in the cited references.

The Examiner may be correct that there is a need for more complex patterns on higher integrated masks which requires the use of multiple patterns and production techniques. However, the Examiner has not provided any reason for why the particular patterns and production techniques of claims 5-8, 30-59 and 79-96 would be obvious modifications of the cited references. Applicant respectfully submits that the techniques and patterns of claims 5-8, 30-59 and 79-96 are not obvious modifications of the cited references. Specifically, since the Examiner has found no basis known in the prior art for modifying the cited references to achieve the specific recited features of claims 5-8, 30-59 and 79-96, the claims are not obvious within the context of 35 U.S.C. §103, and particularly within the context explained in M.P.E.P. §706.02(j). Applicant therefore requests formal allowance of claims 5-8, 30-59 and 79-96 in the Examiner's next action.

Claims 12-26 are allowed, and claims 5-8, 30-59 and 79-96 are believed allowable for the reasons discussed above. Applicant therefore requests formal allowance of pending claims 5-8, 12-26, 30-59 and 79-96 in the Examiner's next action.

Respectfully submitted,

Dated: June 10, 2004

By: 

David G. Latwesen, Ph.D.
Reg. No. 38,533